

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 27, 1997 LB 856

SENATOR ABBODD: Mr. President, members. LB 856 would allow a person that had been arrested erroneously, arrested because of a mistake by a law enforcement agency or personnel, to file a petition with the district court for an order to expunge the criminal history record information relating to the arrest that was made. The district court may grant the petition and issue an order to expunge the information if the petitioner shows, by clear and convincing evidence, that the arrest was due by a mistake by the arresting law enforcement agency or officer. The petition would be filed in the district court in the county in which the petitioner was arrested. The county attorney would be named as the respondent and would be served with a copy of the petition to be reviewed, and as to whether or not they wish to appear or object to the motion made by the individual. This issue came to me as a result of a constituent that had been arrested in error, and the individual...no charges were ever filed, a mistake was made, but this was placed on his permanent record. When he applied for a job with United Parcel Service, he was denied employment as a result of this erroneous arrest, and I felt that it was something we could do, some help with. In other areas of the law, we do provide for expungement of records if they successfully complete a probationary period or pay the fine or a number of different criteria that we use for expungement, but this goes to another problem which I think we need to deal with. That was the purpose of the bill. Thank you.

SPEAKER WITHEM: Thank you, Senator Abboud. For discussion, Senator Beutler.

SENATOR BEUTLER: Senator Abboud, quickly...a nice little bill from my point of view. I just wanted to ask you: Under the bill, the party who is wronged has to file a petition. Does he have to do that at his own expense?

SENATOR ABBODD: Yes.

SENATOR BEUTLER: Would...is this the kind of case where it might make some sense to provide that the state should pay for that cost?